

### REMARKS

This paper is filed in response to the Office Action dated September 24, 2003. Claims 13, 15-19, 30 and 32-51 are currently pending. Claims 13, 16, 30, 33, 35, 37, 39-40, 44 and 48 have been amended. Reexamination and reconsideration are respectfully requested.

Claims 13, 16, 30, 33, 40, 44 and 48 were objected to. Applicant has amended these claims as suggested by the Examiner to address the noted informalities. Applicant has also amended claim 13 for clarity, so that line 11 of the claim reads "at least one" instead of "any one". This amendment is not in response to any rejection of claim 13 and it is believed that this amendment does not narrow the scope of the claim 13 from the previous language.

Claims 35-36, 38-43, and 48-51 were rejected under 35 U.S.C. 102(e) as unpatentable over U.S. Patent No. 6,015,725 to Hirayama ("Hirayama"). The rejection is respectfully traversed.

Applicant respectfully submits that the Examiner has cited no portion of the art that describes or suggests a device "wherein the floating gate structure of the first and second transistors is positioned a distance away from the groove" as recited in claim 35, as amended. It appears that Hirayama as cited by the Examiner includes floating gate structure 32 that is positioned within the groove 14 and not "positioned a distance away from the groove" as recited in claim 35. Applicant respectfully submits that the Examiner has not met his burden to establish invalidity, and therefore the rejection of claim 35 should be withdrawn. The rejection of claims 36, 38-43 and 49 should be withdrawn for at least similar reasons as claim 13.

With respect to claim 48 and its dependent claims 50-51, applicant does not understand the Examiner's statements relating to what the Examiner referred to as the "first sources/drain regions (3, 4b, b)" and the "second sources/drain regions (3, 4b, 5)". Applicant assumes that referent to the letter "b" in the first sources/drain regions is a typographical error and the Examiner intended to refer to reference number 5. Applicant does not understand the Examiner's statement on page 4 of the Office Action that "the first source/drain regions and the second source/drain regions each including an upper surface that extends along a common plane . . ." Applicant review of Fig. 6 of Hirayama including reference numbers 3, 4b and 5 appear to show a lower regions 3 and 4b and upper regions 5. These lower regions and upper regions do not appear to each show an "upper surface that extends along a common plane" as recited in claim 48. Accordingly, applicant respectfully submits that for at least the above reason, the rejection is

deficient and should be withdrawn. The rejection of dependent claims 50-51 should be withdrawn for at least the same reasons as claim 48.

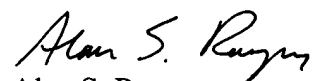
Applicant thanks the Examiner for indicating that claims 13, 16, 30, 32-34, 44-47 and 52-54 were allowed. As noted above, claims 13, 16, 30, 33, and 44 were amended. The Examiner also indicated that claim 37 would be allowable if rewritten in independent form. Claim 37 has been so rewritten.

Claims 15 and 17-19 were withdrawn from consideration by the Examiner. Applicant previously amended claim 15 to depend from claim 13, in a response filed on Feb. 12, 2003. Claims 17-19 also depend from claim 13. Applicant respectfully requests examination of these claims in view of claim 13 being in allowable form.

The Office Action also included various comments concerning the art and non-patentability of features in various of the pending claims. Applicants respectfully disagree with the Examiner's non-patentability conclusions. The discussion above has directly addressed some of those comments and the Examiner's other comments are deemed moot at this time in view of this response.

Applicant respectfully submits that the pending claims are in condition for allowance. Reexamination and reconsideration are respectfully requested. If, for any reason, the application is not in condition for allowance, the Examiner requested to telephone the undersigned to discuss the steps necessary to place the application into condition for allowance.

Respectfully submitted,



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January 23, 2004  
(Date)